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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/790,245	10/790,245 03/02/2004		Wolfgang Held	028987.53209US	9893	
23911	7590	01/10/2006		EXAM	INER	
CROWELI			NGUYEN, TU MINH			
		OPERTY GROUP	ART UNIT	PAPER NUMBER		
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DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/790,245	HELD ET AL.				
Office Action Summary	Examiner	Art Unit				
	Tu M. Nguyen	3748				
The MAILING DATE of this communication Period for Reply	n appears on the cover sheet wi	th the correspondence address				
A SHORTENED STATUTORY PERIOD FOR R WHICHEVER IS LONGER, FROM THE MAILIN - Extensions of time may be available under the provisions of 37 C after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory in the set of extended period for reply within the set or extended period for reply will, by the Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	NG DATE OF THIS COMMUNION (FR 1.136(a). In no event, however, may a roon. period will apply and will expire SIX (6) MON statute, cause the application to become AB	CATION. eply be timely filed THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on						
2a) ☐ This action is FINAL . 2b) ⊠	This action is FINAL. 2b)⊠ This action is non-final.					
closed in accordance with the practice un	der <i>Ex parte Quayle</i> , 1935 C.D	. 11, 453 O.G. 213.				
Disposition of Claims						
4) ⊠ Claim(s) 1-7 is/are pending in the applicated 4a) Of the above claim(s) is/are with 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) 1-7 is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction as	hdrawn from consideration.					
Application Papers		,				
9) The specification is objected to by the Exact 10) The drawing(s) filed on 02 March 2004 is/s Applicant may not request that any objection to Replacement drawing sheet(s) including the control of the oath or declaration is objected to by the second of the control of the co	are: a)⊠ accepted or b)⊡ obj o the drawing(s) be held in abeyan orrection is required if the drawing(ce. See 37 CFR 1.85(a). (s) is objected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for fo a) All b) Some * c) None of: 1. Certified copies of the priority documents. 2. Certified copies of the priority documents. 3. Copies of the certified copies of the application from the International B * See the attached detailed Office action for an application. 	ments have been received. ments have been received in A priority documents have been ureau (PCT Rule 17.2(a)).	pplication No received in this National Stage				
Attachment(s) 1) Notice of References Cited (PTO-892)		ummary (PTO-413)				
 Notice of Draftsperson's Patent Drawing Review (PTO-94 Information Disclosure Statement(s) (PTO-1449 or PTO/S Paper No(s)/Mail Date <u>030204</u>.)/Mail Date Iformal Patent Application (PTO-152) 				

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because on line 2 of the claim, "the triggerable" should read --a triggerable--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyagi (U.S. Patent 4,100,735).

Re claims 1 and 5, as shown in Figures 1 and 4, Miyagi discloses a vehicle exhaust system and a method of triggering exhaust flaps in said exhaust system, the system comprising:

- triggerable exhaust flaps (30, 36, 37, 38),
- a vacuum storage device (50) operatively connected via a nonreturn valve (72) to an intake system (8) and to an exhaust system (3) via a triggerable solenoid valve (30) in parallel therewith, and
- a plurality of engine characteristics maps stored in an engine control unit (22) for triggering the triggerable solenoid valve (30) to open and close the exhaust flaps as a function

of at least one stored engine characteristics map which includes the rotational speed, engine load and the engaged gear (see Figures 4, lines 31-43 of column 2, and line 60 of column 5 to line 2 of column 6).

Re claims 2, 3, and 6, in the method and system of Miyagi, an appropriate one of the engine characteristics maps is selected in the control unit from the stored engine characteristics maps depending on a preselectable requirement (Figures 4A and 4B show the relationships between the time T and the displacement H of the valve body (38) under low engine load and high engine load conditions, respectively).

Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagi as applied to claims 3 and 6, respectively, above.

The method and system of Miyagi disclose the invention as cited above, however, fail to disclose that the selected appropriate engine characteristics map is configured to provide a switch between operation of the vehicle as a street vehicle and as a racecar.

As shown in Figures 4A and 4B, Miyagi opens or closes the exhaust flaps based on an engine load. It is obvious to one with ordinary skill in the art that a vehicle operating under a

low engine load condition is being driven at a relatively low speed on a city street; and that a vehicle operating under a high engine load condition is being driven at a relatively high speed on a racing circuit.

Prior Art

- 6. The IDS (PTO-1449) filed on March 2, 2004 has been considered. An initialized copy is attached hereto.
- 7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of five patents: Hartel (U.S. Patent 3,931,710), Bockelmann et al. (U.S. Patent 4,000,615), Bockelmann et al. (U.S. Patent 4,058,978), Kubota (U.S. Patent 4,464,896), and Zimmer et al. (U.S. Patent 6,250,073) further disclose a state of the art.

Communication

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Application/Control Number: 10/790,245

Art Unit: 3748

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMN

January 6, 2006

Tu M. Nguyen

Primary Examiner

Tu M. Nguyen

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